

Australian Constitutional Law and Theory Commentary and Materials

Tony Blackshield, George Williams and Brian Fitzgerald; The Federation Press, 1995; 1070 pp; \$85.00 softcover.

In late 1995, my colleague Isabel Karpin and I were given the demanding but welcome task of designing a pilot constitutional law course at the University of Sydney. Our aims were to put together and deliver in Semester 1, 1996, a constitutional law course which was critical and contextual, which employed interactive, student-centred learning principles, which integrated skills training with the teaching of a substantive law subject, and which used 'best practice' continuous assessment models. It was a daunting brief; Federation's announcement of the impending publication of Blackshield et al's book looked like a godsend.

How was the promise of this text borne out?

Australian constitutional Law & Theory: Commentary & Materials is a version of the classic law school 'Cases and Materials' format — a teaching text. While its politics are cutely telegraphed in the Preface in the following sentence:

**The law is stated as at
11 November 1995,**

and in subheadings like 'The Murphy Catalyst', it nowhere matches this implicit criticism of its competition for the hearts and minds of Australia's constitutional law teachers (and the pockets of their students) with a critical reflection on its generic model.

Post-*The Quiet Revolution* it seems disappointing that a student text which so clearly seeks to break new ground and which often succeeds in doing so is not equally thoughtful and challenging about the pedagogic contexts in which it might be deployed. And of the kinds of legal subjects it will play a part in forming. It is even more disappointing given that in Graycar and Morgan's *The Hidden Gender of Law*, Federation had published a variation on the cases and materials format which performed precisely this kind of critical collapsing of the crude substance-form dichotomy which still bedevils Australian legal education like the ghost of legalism past.

This is a text which explicitly challenges the High Court's coy *Realpolitik* in *Mabo* by calling the issue of sovereignty in this country what it is — a constitutional issue of critical significance. That it can do this and still extract the 'rationes' of constitutional cases in digestible chunks and paraphrase 'material facts' of cases, and so fail squarely to address the ways in which the law that constitutes our nation is constructed in its reading and writing is a crucial blindspot particularly visible in a critical project. That the work includes sections on 'Feminism and Constitutionalism' and 'Postmodernity and Postmodernism' in its chapter on 'Theoretical Approaches to constitutional Understanding' makes this lack of self-referentiality by Blackshield and his co-authors verge on the ironic.

This is a major criticism. I have other, less significant and more traditional ones. For example, its list of exceptions to the *Boilermakers*' principle is thin and oversimplified. Despite quite a useful chapter on 'Characterisation and the Trade and Commerce Power', it does not take up Arthur Glass's lead in *Federal constitutional Law: An Introduction*, and make the question of constitutional interpretation an Australian as well as a US constitutional law commonplace.

However, there are many things which this text does that are new and useful. It is well and thoughtfully structured. Its range of extracted materials is much wider and more thought-provoking than that of most casebooks. It historicises both its approach to the question of constitutionality and its account of shifts in constitutional interpretation by the High Court. It does a very good job indeed of rationalising 'manner and form', so often a nightmare of incomprehension for students of Australian federal constitutional law. The authors' decision to combine their account of the appropriation and nationhood powers is intelligent, and its juxtaposing of this chapter with that on the taxation and grants powers thought-provoking. The

chapter on the High Court is welcome, if more circumspect than it might have been on issues such as the method of appointment of federal judges and on judicial sociology and judicial discourse in Australian constitutional cases. And I suspect that despite its length it is more accessible to student readers than its principal competition.

Reader, we set Blackshield et al. as our casebook. But we supplemented it with a tome of our own.

PENELOPE PETHER

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The Dark Room

by Minette Walters; Allen & Unwin 1995; 398 pp; \$18.95.

For a crime fiction junkie a punchy beginning is always a good sign. And punchy is what the reader encounters in the prologue of *The Dark Room*. Minette Walters provides a disconcerting start to the book in order to set up the discovery of the body. She then launches into the telling of the twisted story revolving around Jinx Kingsley who wakes from a coma to find that she has apparently tried to commit suicide twice within a week and that her fiancé has abandoned her for her best friend within weeks of their wedding. The fact that the bodies of her fiancé and best friend are soon discovered and that her previous husband had been murdered after an affair with the same best friend means that all roads point to Jinx. Or do they? A raft of other characters also appear to have motive, means and opportunity and the appearance of more bodies along the way leaves the reader to untwist a number of tangled leads and subplots.

Jinx is portrayed as financially successful but with little control over her emotional well being. Despite this character flaw, or perhaps because of it, this reader found her high fashion, high class English ways eminently irritating. Not that any of Jinx's relatives or friends are any more redeemable. Greedy, spoilt, selfish, and plain stupid are merely some of the terms that could be applied to the other characters in this book. Indeed, as you progress through the plot

there is almost a sense of hoping that particular characters are responsible for the murders in order to see them reap their 'just desserts'.

An interesting aspect to this book is the way Walters tells the story. Straight narrative text is broken up with the insertion of newspaper clippings, police reports and doctor's memoranda so that background information is delivered without the need for dialogue. Dialogue when used also operates on a number of levels, there is the spoken objective level and the unspoken subconscious level. The use of these parallel voices, as it were, creates a multi-layered text for the reader as you work your way through the maze of characters and plot twists. Just as you think you have reached a way out you discover that it's a dead end.

What is disappointing about this novel though, is the handling of the relationship between Jinx and her doctor. At times I felt I had swapped a mystery novel for a romance as the doctor/patient romance lacks plausibility and is at

odds with the previous personality and behaviour of the characters. The romance seems to have been thrown in at the end as an afterthought rather than serving any real plot function. Having not read any of Walters' other works it is hard to tell whether this is merely a one-off slip.

The strong points about *The Dark Room* lie in the fact that it is an interesting exploration of the dark side of human behaviour within a well plotted murder mystery. *The Dark Room* of the title clearly refers to the dark side of the human psyche and Walters is not afraid to explore the twisted lines of the psyche in creating this story. What let this novel down for me was the unnecessary add-on romance and the fact that I despised all the characters. Weak, nosy, selfish, spoilt or just plain irritating the characters detract from an otherwise enjoyable mystery.

ANNEMAREE McDONOUGH

Clockers

by Richard Price; Allen & Unwin 1995; 655 pp; \$14.95.

Strike is 19 and already earns between \$1500 and \$2000 a week. He manages a crew of workers and along with his boss Rodney epitomises the workings of the American free market economy. Identify a market and supply that market. Rocco Klein on the other hand is 43, jaded, drinks on the job and goofs off when he is on duty. He is cruising out the last years of his employment waiting to take his retirement.

In *Clockers* Richard Price juxtaposes the lives of Strike the crack cocaine dealer with that of Rocco the homicide detective in a gritty, no holds barred look at life in the projects of Dempsy, New York. The device through which the two are drawn together is a murder to which Strike's brother Victor has confessed. Rocco is convinced that Strike is the real killer and Price skilfully utilises the murder investigation to subtly confront the reader with a range of strongly drawn characters who flesh out the life of the street. The street life and the characters who populate it quickly grab the attention of the reader in a way which almost makes the narrative role of the murder investigation obsolete.

In *Clockers* there are no easy solutions, no white heroes, no black villains. The war on drugs as it has come to be euphemistically known is represented for what it is, a daily charade of arrests on minor charges amongst a litany of dealers, deals and cops on the take. The daily raids by the police on the crews, with their verbal and physical humiliations are represented as little more than shadow boxing for both police and clockers. In some senses the contact between police and crews is elaborately scripted dance although it is a dance in which a wrong move carries dangerous risks. The representation of violence in the book is at odds, however, with common myths of American urban violence. Violence on the streets and amongst the crews is represented not as random or as unexpected but as serving two major purposes: an effective method of social control by both dealers and cops and as a tool of revenge. Random 'undeserved' physical and sexual violence on the other hand is represented as occurring mostly within the structure of the justice system in police cells and in detention.

Price de-constructs the phrase crack cocaine dealer removing it from the

realm of myth and stereotype. Strike is a skinny and young 19-year-old, Horace is 13 and uses the money he makes to buy brightly coloured toys and stores his bottles in his backpack with his schoolbooks covered in his childish writing. Futon stores his bottles in the bottom of a jar of gummy bears. These are 'kids'. The stark lives of youth in the projects make the act of dealing not only a sensible, but perhaps the only, option available. For Strike and the others dealing is work, and difficult work at that. They do not see themselves as criminals; clocking is just what they do, *their best shot* at building a life, like going into the army or working for the United Parcel Services. Strike considers that he will leave clocking when he earns enough money but as his mother asks, how much is enough, how much do you need to retire? Strike's youthful desire to get out is mirrored in Rodney his boss, who also talks of getting out and getting into housing but for whom the power of being the man with the bottles is an addiction as equal to that of the customers he supplies.

Initially appearing to be a contrast to Strike is his brother Victor working security during the days and in the greasy Hambones restaurant at night in order to move his family out of the projects. When Victor confesses to the murder it allows Price the opportunity to portray a character who in many respects is the flip side of both Strike and Rocco. However, as the novel progresses, the reader becomes aware that the three main characters share many characteristics of which the desire for attention and affection is perhaps the most poignant. Price's rendering of his subjects is the highlight of the novel. His exploration of the lives of the main characters is a multifaceted one in which the inherent complexities in each of the protagonist's lives are drawn with insight and in a way that shakes up the reader's preconceived notions of victims and victimisers.

Clockers is a novel in which the journey the reader takes along the way is far more important than the end destination. If the reader regards the murder as a metaphor for American society than the culmination of the murder investigation cleverly leaves open as many questions as are answered. For the reader who wants to explore the dark side of the American dream *Clockers* is a fine place to start.

ANNEMAREE McDONOUGH

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